

Fair Political Practices Commission
Memorandum

To: Chairman Randolph and Commissioners Blair, Downey, Karlan and Knox

From: Hal Dasinger, Political Reform Consultant, Technical Assistance Division
Carla Wardlow, Chief, Technical Assistance Division
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Subject: Biennial Gift Limit Adjustment: Adoption of Amendments to Regulations 18703.4, 18730, 18940.2, 18942.1 and 18943

Date: November 10, 2004

Background:

The gift limit is adjusted biennially by the Commission to reflect changes in the annual average California Consumer Price Index ("CPI"). (Government Code sections 87103(e) and 89503(f).) The proposed amendments to regulations 18703.4, 18730, 18940.2, 18942.1 and 18943 reflect the adjustment of the gift limit from \$340 to \$360 for the period of January 1, 2005 through December 31, 2006.

The California Department of Finance ("DOF") provides the CPI calendar year averages for all urban consumers. The DOF September forecast indicates an annual average calendar year CPI for 2004 of 194.9.

Gift Limit Calculation (Regulation 18940.2):

The formula used to calculate the adjusted gift limit is as follows: the base dollar amount of \$250 multiplied by the annual CPI (194.9), divided by 135 (the base CPI from 1990), rounded to the nearest \$10. (Regulation 18940.2.)

$$\frac{\$250 \text{ (base dollar amount)} \times 194.9 \text{ (annual CPI)}}{135 \text{ (base CPI from 1990)}} = \$360.93 \text{ (\$360 when rounded to nearest \$10)}$$

Using the above formula, the gift limitation amount for January 1, 2005 to December 31, 2006 equals \$360.93. This amount is adjusted to \$360 when rounded to the nearest \$10. Therefore, the proposed amendment to this regulation adjusts the gift limit from \$340 to \$360 for the period of January 1, 2005 to December 31, 2006.

Other Regulations Affected:

Adoption of amendments to other FPPC regulations affected by this gift limit adjustment, regulations 18703.4, 18730, 18942.1 and 18943, are also being presented at this time to reflect the new gift limit amount.

Additional Technical Changes to 18730:

Economic interest vs. financial interest

The proposed amendment to regulation 18730 (Provisions of Conflict of Interest Codes) presented here includes two technical changes. The current version of the regulation refers to “financial” interests while the statutory language of 87200 et seq. requires disclosure of “economic” interests. The proposed regulation as amended refers to “economic” interests to conform with the statutes and other Commission regulations.

Period covered by annual statements

The proposed amendment to regulation 18730 also adds the following underscored language to subsection (b)(6)(C):

(C) Contents of Annual Statements. Annual statements shall disclose any reportable investments, interests in real property, income and business positions held or received during the previous calendar year provided, however, that the period covered by an employee’s first annual statement shall begin on the effective date of the code or the date of assuming office whichever is later, or for a board or commission member subject to Government Code section 87302.6, the day after the closing date of the most recent statement filed by the member pursuant to 2 Cal. Code Regs. Section 18754.

Section 87302.6 was added to the Act in 2002, and requires members of boards or commissions of newly created agencies to file statements of economic interests (Form 700) prior to adoption of the agency’s conflict of interest code. This proposed amendment will eliminate a potential conflict with regulation 18754(d), which reads:

(d) Effect Upon Initial Statements Required Under Government Code section 87302(b): An assuming office statement or annual statement filed under this section by a member of a governing board or commission of a newly created agency is deemed to satisfy the requirement at Government Code section 87302(b) that an initial statement be filed by that member within 30 days after the effective date of the new conflict of interest code applicable to that member.

The proposed amendment to regulation 18730 clarifies the requirement that members of boards or commissions of newly created agencies must file annual statements covering the period beginning the day after the closing date of the last statement filed by the member. Without the clarifying amendment, the two regulations could be read together to allow a gap in reporting because, in most instances, the new agency’s code will go into effect later than the date the filer assumes office.

For example, under regulation 18754(b), an official appointed to a new agency board or commission must file an assuming office statement within 30 days (10 days if subject to Senate

confirmation). Once the agency's conflict of interest code is adopted, regulation 18730(b)(6)(C) provides that the period covered by his or her next (annual) statement will begin the day after the assuming office date, or the day after the effective date of the agency's conflict of interest code, *whichever is later*. If the code is adopted a year after the official's assuming office date, there could be a gap in reporting for the period between the official's assuming office date and the effective date of the code.

Staff Recommendation:

Staff recommends approval of the gift limit adjustment from \$340 to \$360 as discussed above and amendments to regulations 18703.4, 18730, 18940.2, 18942.1 and 18943, as shown.

Attachments: Regulations 18703.4
 18730
 18940.2
 18942.1
 18943

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